

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STEVEN MANNING and SHEILA  
MANNING, individually and as husband and  
wife,

Plaintiffs,

vs.

FIRST NATIONAL INSURANCE  
COMPANY OF AMERICA, a foreign  
insurance company,

Defendant.

No.

NOTICE OF REMOVAL TO FEDERAL  
COURT PURUSANT TO 28 U.S.C. §§ 1441  
& 1446


TO: Judges of the United States  
District Court for the Western District of Washington at Seattle;

AND TO: Attorney for Plaintiffs

The Defendant, through its counsel of record, hereby provides notice of removal pursuant to 28 U.S.C. § 1332(a) and (c), § 1441(a), and § 1446(a), (b) and (d). The grounds for removal are as follows:

1. This notice of removal is brought pursuant to 28 U.S.C. §§1441(a), 1446 and Western District CR 101(a) and (b). This Court has original jurisdiction pursuant to 28 U.S.C.

NOTICE OF REMOVAL TO FEDERAL COURT  
PURUSANT TO 28 U.S.C. §§ 1441 & 1446 – 1  
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1 §1332(a) and (c) on the basis that there is complete diversity of citizenship between the  
2 parties and the amount in controversy is in excess of \$75,000, exclusive of treble damages,  
3 interest and costs. Venue is proper in the U.S. District Court for the Western District of  
4 Washington at Seattle because the plaintiffs' action was filed in King County, Washington.  
5 *See* 28 USC §1441(a).  
6

7 2. On November 18, 2022, the Insurance Commissioner was served with the  
8 Summons and Complaint and accepted Service on behalf of the Defendant, an authorized  
9 foreign insurer. True and correct copies of the Summons, Complaint, Insurance  
10 Commissioner's Certificate of Service and Order Setting Civil Case Schedule are attached as  
11 **Exhibit 1** to the Declaration of John M. Silk ("Silk Dec.").  
12

13 3. Defendant First National Insurance Company of America, ("FNIC") is a  
14 foreign corporation and currently incorporated under the laws of the State of New Hampshire  
15 with its principal place of business in Boston, Massachusetts and for purposes of diversity  
16 jurisdiction is a citizen of a state other than Washington.

17 4. Upon information and belief, Plaintiffs were at the time the Complaint was  
18 filed, and currently are residents of Washington. In their Complaint, Plaintiffs alleges that  
19 they currently reside in King County, Washington. Complaint at Silk Dec., **Exhibit 1**,  
20 Paragraphs 1.1 and 1.2. There is complete diversity of citizenship between the parties  
21 pursuant to 28 U.S.C. §1332 (a) and (c).  
22

23 5. Plaintiffs assert claims for Underinsured Motorist payments under the  
24 insurance policy and for alleged breach of contract, bad faith, negligence and violations of the  
25 Insurance Fair Conduct Act and the Consumer Protection Act. *See* Complaint, at Silk Dec.,  
26 **Exhibit 1**, Paragraphs 4.1 through 6.3. As noted in their Complaint, among the damages the

1 Plaintiffs seek are the UIM policy limit of \$100,000. **Exhibit 1**, Paragraph 3.9 and **Exhibit 2**  
 2 (Plaintiffs' demand email dated October 8, 2021). In addition to Plaintiffs' UIM claim,  
 3 Plaintiffs seek treble damages, penalties and attorney fees under the Consumer Protection Act  
 4 ("CPA") and Insurance Fair Conduct Act ("IFCA"), which are included for calculating  
 5 whether a plaintiff's claim meets the amount in controversy requirement. *See e.g.*,  
 6 *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 700 (9th Cir. 2007). Defendant does not  
 7 agree that Plaintiffs are entitled to payment of \$100,000 for their UIM claim and denies any  
 8 liability to Plaintiffs under the CPA and IFCA. Therefore, it is clear that the amount in  
 9 controversy in this action exceeds \$75,000.  
 10

11 6. Defendant will give written notice of the filing of this Notice of Removal to all  
 12 attorneys of record and to the Clerk of the Superior Court of King County, Washington, as  
 13 required by 28 U.S.C. § 1446(d).  
 14

15 WHEREFORE, Defendant requests that this action be removed to the United States  
 16 District Court for the Western District of Washington at Seattle.

17 DATED this 7<sup>th</sup> day of December, 2022.

18 s/ John M. Silk

19 John M. Silk, WSBA #15035

20 s/ Brian J. Hansford

21 Brian J. Hansford, WSBA #47380

22 WILSON SMITH COCHRAN DICKERSON

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Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington that on the below date I filed the foregoing document with the Clerk of the Court of the Western District of Washington using the court's CM/ECF system and I caused a true and correct copy to be served on:

**Attorney for Plaintiffs**

Loren A. Cochran  
Nicholas B. Douglas  
Cochran Douglas, PLLC  
4826 Tacoma Mall Blvd, Suite C  
Tacoma, WA 98409-7108  
( ) Via U.S. Mail  
( ) Via Facsimile  
( ) Via Hand Delivery  
(X) Via Email: loren@cochrandouglas.com  
cole@cochrandouglas.com

**SIGNED** this 7<sup>th</sup> day of December, 2022, at Seattle, Washington.

s/ Traci Jay

Traci Jay

